



General Assembly

February Session, 2010

Amendment

LCO No. 4806

SB0040304806SD0

Offered by:

SEN. HARRIS, 5th Dist.

REP. RITTER, 38th Dist.

To: Subst. Senate Bill No. 403

File No. 354

Cal. No. 242

"AN ACT CONCERNING HEALTH INFORMATION TECHNOLOGY."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) (a) There is hereby created
4 as a body politic and corporate, constituting a public instrumentality
5 and political subdivision of the state created for the performance of an
6 essential public and governmental function, the Health Information
7 Technology Exchange of Connecticut, which is empowered to carry
8 out the purposes of the authority, as defined in subsection (b) of this
9 section, which are hereby determined to be public purposes for which
10 public funds may be expended. The Health Information Technology
11 Exchange of Connecticut shall not be construed to be a department,
12 institution or agency of the state.

13 (b) For purposes of this section, sections 2 to 4, inclusive, of this act
14 and section 19a-25g of the general statutes, as amended by this act,
15 "authority" means the Health Information Technology Exchange of

16 Connecticut and "purposes of the authority" means the purposes of the
17 authority expressed in and pursuant to this section, including the
18 promoting, planning and designing, developing, assisting, acquiring,
19 constructing, maintaining and equipping, reconstructing and
20 improving of health care information technology. The powers
21 enumerated in this section shall be interpreted broadly to effectuate
22 the purposes of the authority and shall not be construed as a limitation
23 of powers. The authority shall have the power to:

24 (1) Establish an office in the state;

25 (2) Employ such assistants, agents and other employees as may be
26 necessary or desirable, which employees shall be exempt from the
27 classified service and shall not be employees, as defined in subsection
28 (b) of section 5-270 of the general statutes;

29 (3) Establish all necessary or appropriate personnel practices and
30 policies, including those relating to hiring, promotion, compensation,
31 retirement and collective bargaining, which need not be in accordance
32 with chapter 68 of the general statutes, and the authority shall not be
33 an employer, as defined in subsection (a) of section 5-270 of the general
34 statutes;

35 (4) Engage consultants, attorneys and other experts as may be
36 necessary or desirable to carry out the purposes of the authority;

37 (5) Acquire, lease, purchase, own, manage, hold and dispose of
38 personal property, and lease, convey or deal in or enter into
39 agreements with respect to such property on any terms necessary or
40 incidental to the carrying out of these purposes;

41 (6) Procure insurance against loss in connection with its property
42 and other assets in such amounts and from such insurers as it deems
43 desirable;

44 (7) Make and enter into any contract or agreement necessary or
45 incidental to the performance of its duties and execution of its powers.

46 The contracts entered into by the authority shall not be subject to the
47 approval of any other state department, office or agency. However,
48 copies of all contracts of the authority shall be maintained by the
49 authority as public records, subject to the proprietary rights of any
50 party to the contract;

51 (8) To the extent permitted under its contract with other persons,
52 consent to any termination, modification, forgiveness or other change
53 of any term of any contractual right, payment, royalty, contract or
54 agreement of any kind to which the authority is a party;

55 (9) Receive and accept, from any source, aid or contributions,
56 including money, property, labor and other things of value;

57 (10) Invest any funds not needed for immediate use or disbursement
58 in obligations issued or guaranteed by the United States of America or
59 the state and in obligations that are legal investments for savings banks
60 in this state;

61 (11) Account for and audit funds of the authority and funds of any
62 recipients of funds from the authority;

63 (12) Sue and be sued, plead and be impleaded, adopt a seal and alter
64 the same at pleasure;

65 (13) Adopt regular procedures for exercising the power of the
66 authority not in conflict with other provisions of the general statutes;
67 and

68 (14) Do all acts and things necessary and convenient to carry out the
69 purposes of the authority.

70 (c) (1) The Health Information Technology Exchange of Connecticut
71 shall be managed by a board of directors. The board shall consist of the
72 following members: The Lieutenant Governor, or his or her designee;
73 the Commissioners of Public Health, Social Services and Consumer
74 Protection, or their designees; the Chief Information Officer of the
75 Department of Information Technology, or his or her designee; three

76 appointed by the Governor, one of whom shall be a representative of a
77 medical research organization, one of whom shall be an insurer or
78 representative of a health plan and one of whom shall be an attorney
79 with background and experience in the field of privacy, health data
80 security or patient rights; three appointed by the president pro
81 tempore of the Senate, one of whom shall have background and
82 experience with a private sector health information exchange or health
83 information technology entity, one of whom shall have expertise in
84 public health and one of whom shall be a physician licensed under
85 chapter 370 of the general statutes who works in a practice of not more
86 than ten physicians and who is not employed by a hospital, health
87 network, health plan, health system, academic institution or university;
88 three appointed by the speaker of the House of Representatives, one of
89 whom shall be a representative of hospitals, an integrated delivery
90 network or a hospital association, one of whom who shall have
91 expertise with federally qualified health centers and one of whom shall
92 be a consumer or consumer advocate; one appointed by the majority
93 leader of the Senate, who shall be a primary care physician whose
94 practice utilizes electronic health records; one appointed by the
95 majority leader of the House of Representatives, who shall be a
96 consumer or consumer advocate; one appointed by the minority leader
97 of the Senate, who shall be a pharmacist or a health care provider
98 utilizing electronic health information exchange; and one appointed by
99 the minority leader of the House of Representatives, who shall be a
100 large employer or a representative of a business group. The Secretary
101 of the Office of Policy and Management and the Healthcare Advocate,
102 or their designees, shall be ex-officio, nonvoting members of the board.
103 The Commissioner of Public Health, or his or her designee, shall serve
104 as the chairperson of the board.

105 (2) All initial appointments to the board shall be made on or before
106 October 1, 2010. The initial term for the board members appointed by
107 the Governor shall be for four years. The initial term for board
108 members appointed by the speaker of the House of Representatives
109 and the majority leader of the House of Representatives shall be for

110 three years. The initial term for board members appointed by the
111 minority leader of the House of Representatives and the minority
112 leader of the Senate shall be for two years. The initial term for the
113 board members appointed by the president pro tempore of the Senate
114 and the majority leader of the Senate shall be for one year. Terms shall
115 expire on September thirtieth of each year in accordance with the
116 provisions of this subsection. Any vacancy shall be filled by the
117 appointing authority for the balance of the unexpired term. Other than
118 an initial term, a board member shall serve for a term of four years. No
119 board member, including initial board members, may serve for more
120 than two terms. Any member of the board may be removed by the
121 appropriate appointing authority for misfeasance, malfeasance or
122 wilful neglect of duty.

123 (3) The chairperson shall schedule the first meeting of the board,
124 which shall be held not later than November 1, 2010.

125 (4) Any member appointed to the board who fails to attend three
126 consecutive meetings or who fails to attend fifty per cent of all
127 meetings held during any calendar year shall be deemed to have
128 resigned from the board.

129 (5) Notwithstanding any provision of the general statutes, it shall
130 not constitute a conflict of interest for a trustee, director, partner,
131 officer, stockholder, proprietor, counsel or employee of any person,
132 firm or corporation to serve as a board member, provided such trustee,
133 director, partner, officer, stockholder, proprietor, counsel or employee
134 shall abstain from deliberation, action or vote by the board in specific
135 respect to such person, firm or corporation. All members shall be
136 deemed public officials and shall adhere to the code of ethics for public
137 officials set forth in chapter 10 of the general statutes.

138 (6) Board members shall receive no compensation for their services,
139 but shall receive actual and necessary expenses incurred in the
140 performance of their official duties.

141 (d) The board shall select and appoint a chief executive officer who

142 shall be responsible for administering the authority's programs and
143 activities in accordance with policies and objectives established by the
144 board. The chief executive officer shall serve at the pleasure of the
145 board and shall receive such compensation as shall be determined by
146 the board. The chief executive officer (1) may employ such other
147 employees as shall be designated by the board of directors; and (2)
148 shall attend all meetings of the board, keep a record of all proceedings
149 and maintain and be custodian of all books, documents and papers
150 filed with the authority and of the minute book of the authority.

151 (e) The board shall direct the authority regarding: (1)
152 Implementation and periodic revisions of the health information
153 technology plan submitted in accordance with the provisions of
154 section 74 of public act 09-232, including the implementation of an
155 integrated state-wide electronic health information infrastructure for
156 the sharing of electronic health information among health care
157 facilities, health care professionals, public and private payors, state and
158 federal agencies and patients; (2) appropriate protocols for health
159 information exchange; and (3) electronic data standards to facilitate the
160 development of a state-wide integrated electronic health information
161 system, as defined in subsection (a) of section 19a-25d of the general
162 statutes, for use by health care providers and institutions that receive
163 state funding. Such electronic data standards shall: (A) Include
164 provisions relating to security, privacy, data content, structures and
165 format, vocabulary and transmission protocols; (B) limit the use and
166 dissemination of an individual's Social Security number and require
167 the encryption of any Social Security number provided by an
168 individual; (C) require privacy standards no less stringent than the
169 "Standards for Privacy of Individually Identifiable Health Information"
170 established under the Health Insurance Portability and Accountability
171 Act of 1996, P.L. 104-191, as amended from time to time, and contained
172 in 45 CFR 160, 164; (D) require that individually identifiable health
173 information be secure and that access to such information be traceable
174 by an electronic audit trail; (E) be compatible with any national data
175 standards in order to allow for interstate interoperability, as defined in

176 subsection (a) of section 19a-25d of the general statutes; (F) permit the
177 collection of health information in a standard electronic format, as
178 defined in subsection (a) of section 19a-25d of the general statutes; and
179 (G) be compatible with the requirements for an electronic health
180 information system, as defined in subsection (a) of section 19a-25d of
181 the general statutes.

182 (f) Applications for grants from the authority shall be made on a
183 form prescribed by the board. The board shall review applications and
184 decide whether to award a grant. The board may consider, as a
185 condition for awarding a grant, the potential grantee's financial
186 participation and any other factors it deems relevant.

187 (g) The board may consult with such parties, public or private, as it
188 deems desirable in exercising its duties under this section.

189 (h) Not later than February 1, 2011, and annually thereafter until
190 February 1, 2016, the chief executive officer of the authority shall
191 report, in accordance with section 11-4a of the general statutes, to the
192 Governor and the General Assembly on (1) any private or federal
193 funds received during the preceding year and, if applicable, how such
194 funds were expended, (2) the amount and recipients of grants
195 awarded, and (3) the current status of health information exchange and
196 health information technology in the state.

197 Sec. 2. (NEW) (*Effective from passage*) (a) The Health Information
198 Technology Exchange of Connecticut may establish or designate one or
199 more subsidiaries for the purpose of creating, developing,
200 coordinating and operating a state-wide health information exchange,
201 or for such other purposes as prescribed by resolution of the
202 authority's board of directors, which purposes shall be consistent with
203 the purposes of the authority. Each subsidiary shall be deemed a
204 quasi-public agency for purposes of chapter 12 of the general statutes.
205 The authority may transfer to any such subsidiary any moneys and
206 real or personal property. Each such subsidiary shall have all the
207 privileges, immunities, tax exemptions and other exemptions of the

208 authority. A resolution of the authority shall prescribe the purposes for
209 which each subsidiary is formed.

210 (b) Each such subsidiary may sue and shall be subject to suit,
211 provided the liability of each such subsidiary shall be limited solely to
212 the assets, revenues and resources of such subsidiary and without
213 recourse to the general funds, revenues, resources or any other assets
214 of the authority or any other subsidiary. Each such subsidiary shall
215 have the power to do all acts and things necessary or convenient to
216 carry out the purposes for which such subsidiary is established,
217 including, but not limited to: (1) Solicit, receive and accept aid, grants
218 or contributions from any source of money, property or labor or other
219 things of value, subject to the conditions upon which such grants and
220 contributions may be made, including, but not limited to, gifts, grants
221 or loans from any department, agency or quasi-public agency of the
222 United States or the state, or from any organization recognized as a
223 nonprofit organization under Section 501(c)(3) of the Internal Revenue
224 Code of 1986, or any subsequent corresponding internal revenue code
225 of the United States, as amended from time to time; (2) enter into
226 agreements with persons upon such terms and conditions as are
227 consistent with the purposes of such subsidiary; and (3) acquire, take
228 title, lease, purchase, own, manage, hold and dispose of real and
229 personal property and lease, convey or deal in or enter into agreements
230 with respect to such property.

231 (c) Each such subsidiary shall act through its board of directors, not
232 less than fifty per cent of whom shall be members of the board of
233 directors of the authority or their designees.

234 (d) The provisions of section 1-125 of the general statutes, as
235 amended by this act, and this section shall apply to any officer,
236 director, designee or employee appointed as a member, director or
237 officer of any such subsidiary. Neither any such persons so appointed
238 nor the directors, officers or employees of the authority shall be
239 personally liable for the debts, obligations or liabilities of any such
240 subsidiary as provided in said section 1-125. Each subsidiary shall, and

241 the authority may, provide for the indemnification to protect, save
242 harmless and indemnify such officer, director, designee or employee as
243 provided by said section 1-125.

244 (e) The authority or any such subsidiary may take such actions as
245 are necessary to comply with the provisions of the Internal Revenue
246 Code of 1986, or any subsequent corresponding internal revenue code
247 of the United States, as amended from time to time, to qualify and
248 maintain any such subsidiary as a corporation exempt from taxation
249 under said Internal Revenue Code.

250 (f) The authority may make loans or grants to, and may guarantee
251 specified obligations of, any such subsidiary, following standard
252 authority procedures, from the authority's assets and the proceeds of
253 its bonds, notes and other obligations, provided the source and
254 security, if any, for the repayment of any such loans or guarantees is
255 derived from the assets, revenues and resources of such subsidiary.

256 Sec. 3. (NEW) (*Effective from passage*) The state of Connecticut does
257 hereby pledge to and agree with any person with whom the Health
258 Information Technology Exchange of Connecticut may enter into
259 contracts pursuant to the provisions of sections 1 to 4 inclusive of this
260 act that the state will not limit or alter the rights hereby vested in the
261 authority until such contracts and the obligations thereunder are fully
262 met and performed on the part of the authority, provided nothing
263 contained in this section shall preclude such limitation or alteration if
264 adequate provision shall be made by law for the protection of such
265 persons entering into contracts with the authority.

266 Sec. 4. (NEW) (*Effective from passage*) The Health Information
267 Technology Exchange of Connecticut shall be and is hereby declared
268 exempt from all franchise, corporate business, property and income
269 taxes levied by the state or any municipality, provided nothing in this
270 section shall be construed to exempt from any such taxes, or from any
271 taxes levied in connection with the manufacture or sale of any
272 products which are the subject of any agreement made by the

273 authority, any person entering into any agreement with the authority.

274 Sec. 5. Section 19a-25g of the 2010 supplement to the general statutes
275 is repealed and the following is substituted in lieu thereof (*Effective*
276 *from passage*):

277 (a) [On and after July 1, 2009, the] The Department of Public Health
278 shall be the lead health information exchange organization for the state
279 from July 1, 2009, to December 31, 2010, inclusive. The department
280 shall seek private and federal funds, including funds made available
281 pursuant to the federal American Recovery and Reinvestment Act of
282 2009, for the initial development of a state-wide health information
283 exchange. [Any private or federal funds received by the department
284 may be used for the purpose of establishing health information
285 technology pilot programs and the grant programs described in
286 section 19a-25h.]

287 (b) On and after January 1, 2011, the Health Information Technology
288 Exchange of Connecticut, created pursuant to section 1 of this act, shall
289 be the lead health information organization for the state. The authority
290 shall continue to seek private and federal funds for the development
291 and operation of a state-wide health information exchange. The
292 Department of Public Health may contract with the authority to
293 transfer unexpended federal funds received by the department
294 pursuant to the federal American Recovery and Reinvestment Act of
295 2009, P.L. 111-05, if any, for the initial development of a state-wide
296 health information exchange. The authority shall, within available
297 resources, provide grants for the advancement of health information
298 technology and exchange in this state, pursuant to subsection (f) of
299 section 1 of this act.

300 [(b)] (c) The department shall [:(1) Facilitate] facilitate the
301 implementation and periodic revisions of the health information
302 technology plan after the plan is initially submitted in accordance with
303 the provisions of section 74 of public act 09-232, including the
304 implementation of an integrated state-wide electronic health

305 information infrastructure for the sharing of electronic health
306 information among health care facilities, health care professionals,
307 public and private payors, state and federal agencies and patients [,
308 and (2) develop standards and protocols for privacy in the sharing of
309 electronic health information. Such standards and protocols shall be no
310 less stringent than the "Standards for Privacy of Individually
311 Identifiable Health Information" established under the Health
312 Insurance Portability and Accountability Act of 1996, P.L. 104-191, as
313 amended from time to time, and contained in 45 CFR 160, 164. Such
314 standards and protocols shall require that individually identifiable
315 health information be secure and that access to such information be
316 traceable by an electronic audit trail] until December 31, 2010. On and
317 after January 1, 2011, the Health Information Technology Exchange of
318 Connecticut shall be responsible for the implementation and periodic
319 revisions of the health information technology plan.

320 Sec. 6. Subsection (l) of section 1-79 of the general statutes is
321 repealed and the following is substituted in lieu thereof (*Effective from*
322 *passage*):

323 (l) "Quasi-public agency" means the Connecticut Development
324 Authority, Connecticut Innovations, Incorporated, Connecticut Health
325 and Education Facilities Authority, Connecticut Higher Education
326 Supplemental Loan Authority, Connecticut Housing Finance
327 Authority, Connecticut Housing Authority, Connecticut Resources
328 Recovery Authority, Lower Fairfield County Convention Center
329 Authority, Capital City Economic Development Authority, [and]
330 Connecticut Lottery Corporation and Health Information Technology
331 Exchange of Connecticut.

332 Sec. 7. Subdivision (1) of section 1-120 of the general statutes is
333 repealed and the following is substituted in lieu thereof (*Effective from*
334 *passage*):

335 (1) "Quasi-public agency" means the Connecticut Development
336 Authority, Connecticut Innovations, Incorporated, Connecticut Health

337 and Educational Facilities Authority, Connecticut Higher Education
338 Supplemental Loan Authority, Connecticut Housing Finance
339 Authority, Connecticut Housing Authority, Connecticut Resources
340 Recovery Authority, Capital City Economic Development Authority,
341 [and] Connecticut Lottery Corporation and Health Information
342 Technology Exchange of Connecticut.

343 Sec. 8. Section 1-124 of the general statutes is repealed and the
344 following is substituted in lieu thereof (*Effective from passage*):

345 (a) The Connecticut Development Authority, the Connecticut
346 Health and Educational Facilities Authority, the Connecticut Higher
347 Education Supplemental Loan Authority, the Connecticut Housing
348 Finance Authority, the Connecticut Housing Authority, the
349 Connecticut Resources Recovery Authority, the Health Information
350 Technology Exchange of Connecticut and the Capital City Economic
351 Development Authority shall not borrow any money or issue any
352 bonds or notes which are guaranteed by the state of Connecticut or for
353 which there is a capital reserve fund of any kind which is in any way
354 contributed to or guaranteed by the state of Connecticut until and
355 unless such borrowing or issuance is approved by the State Treasurer
356 or the Deputy State Treasurer appointed pursuant to section 3-12. The
357 approval of the State Treasurer or said deputy shall be based on
358 documentation provided by the authority that it has sufficient
359 revenues to (1) pay the principal of and interest on the bonds and notes
360 issued, (2) establish, increase and maintain any reserves deemed by the
361 authority to be advisable to secure the payment of the principal of and
362 interest on such bonds and notes, (3) pay the cost of maintaining,
363 servicing and properly insuring the purpose for which the proceeds of
364 the bonds and notes have been issued, if applicable, and (4) pay such
365 other costs as may be required.

366 (b) To the extent the Connecticut Development Authority,
367 Connecticut Innovations, Incorporated, Connecticut Higher Education
368 Supplemental Loan Authority, Connecticut Housing Finance
369 Authority, Connecticut Housing Authority, Connecticut Resources

370 Recovery Authority, Connecticut Health and Educational Facilities
371 Authority, the Health Information Technology Exchange of
372 Connecticut or the Capital City Economic Development Authority is
373 permitted by statute and determines to exercise any power to
374 moderate interest rate fluctuations or enter into any investment or
375 program of investment or contract respecting interest rates, currency,
376 cash flow or other similar agreement, including, but not limited to,
377 interest rate or currency swap agreements, the effect of which is to
378 subject a capital reserve fund which is in any way contributed to or
379 guaranteed by the state of Connecticut, to potential liability, such
380 determination shall not be effective until and unless the State
381 Treasurer or his or her deputy appointed pursuant to section 3-12 has
382 approved such agreement or agreements. The approval of the State
383 Treasurer or his or her deputy shall be based on documentation
384 provided by the authority that it has sufficient revenues to meet the
385 financial obligations associated with the agreement or agreements.

386 Sec. 9. Section 1-125 of the general statutes is repealed and the
387 following is substituted in lieu thereof (*Effective from passage*):

388 The directors, officers and employees of the Connecticut
389 Development Authority, Connecticut Innovations, Incorporated,
390 Connecticut Higher Education Supplemental Loan Authority,
391 Connecticut Housing Finance Authority, Connecticut Housing
392 Authority, Connecticut Resources Recovery Authority, including ad
393 hoc members of the Connecticut Resources Recovery Authority,
394 Connecticut Health and Educational Facilities Authority, Capital City
395 Economic Development Authority, the Health Information Technology
396 Exchange of Connecticut and Connecticut Lottery Corporation and
397 any person executing the bonds or notes of the agency shall not be
398 liable personally on such bonds or notes or be subject to any personal
399 liability or accountability by reason of the issuance thereof, nor shall
400 any director or employee of the agency, including ad hoc members of
401 the Connecticut Resources Recovery Authority, be personally liable for
402 damage or injury, not wanton, reckless, wilful or malicious, caused in
403 the performance of his or her duties and within the scope of his or her

404 employment or appointment as such director, officer or employee,
 405 including ad hoc members of the Connecticut Resources Recovery
 406 Authority. The agency shall protect, save harmless and indemnify its
 407 directors, officers or employees, including ad hoc members of the
 408 Connecticut Resources Recovery Authority, from financial loss and
 409 expense, including legal fees and costs, if any, arising out of any claim,
 410 demand, suit or judgment by reason of alleged negligence or alleged
 411 deprivation of any person's civil rights or any other act or omission
 412 resulting in damage or injury, if the director, officer or employee,
 413 including ad hoc members of the Connecticut Resources Recovery
 414 Authority, is found to have been acting in the discharge of his or her
 415 duties or within the scope of his or her employment and such act or
 416 omission is found not to have been wanton, reckless, wilful or
 417 malicious.

418 Sec. 10. Section 19a-25h of the general statutes is repealed. (*Effective*
 419 *January 1, 2011*)"

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	19a-25g
Sec. 6	<i>from passage</i>	1-79(l)
Sec. 7	<i>from passage</i>	1-120(1)
Sec. 8	<i>from passage</i>	1-124
Sec. 9	<i>from passage</i>	1-125
Sec. 10	<i>January 1, 2011</i>	Repealer section